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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter)
)
Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition Act)
of 1992: Rate Regulation)
)
and)
)
Adoption of a Uniform Accounting)
System for Provision of Regulated)
Cable Service)

MM Docket No. 93-215

CS Docket No. 94-28

**COMMENTS OF
FRED WILLIAMSON & ASSOCIATES, INC.**

July 1, 1994

Submitted by:
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DECLASSIFIED

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**COMMENTS OF
FRED WILLIAMSON & ASSOCIATES, INC.**

Fred Williamson & Associates, Inc. (FW&A) respectfully submits these Comments in response to the Commission's Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding. The Notice proposes several items of Cost-based Cable Rate Regulation for specific comment/recommendations which affect Cost-of-Service Requirements, Cable Accounting System, Affiliate Transactions, Productivity offset, Upgrade Incentive Plan and Average Cost Schedules.¹ In addition the Notice also includes the proposed Initiation of Cost Studies.²

¹Notice at pp. 305-333.

²Notice at p. 334.

FW&A is a telecommunications management consulting organization located in Tulsa, Oklahoma: serving investor-owned, small, rural, independent telephone Companies and cable providers in Oklahoma, Kansas and Nebraska. FW&A provides an extensive array of management consulting services to these clients, many of which affect, or are affected by, the Commissions' proposed Rules in these Dockets. Further, while not specifically providing accounting service(s) to clients, FW&A becomes involved in both organization and application/analysis of client accounting systems/records in conjunction with its services.

Generally we applaud the Commission's overall intent in these Dockets, which appear to closely conform Cable regulations, rules etc. to existing telephone rules and procedures. As the convergence of telephony and cable continue, and as many providers will be either utilizing common facilities, personnel and/or management to provide end-users communication service(s), it is necessary to allow as much commonality in rules and procedures as possible. Whenever there is any question of specific accounting treatment, or rate making policy, we encourage the Commission to develop/implement these as consistently to existing telephone items as possible. Further, we encourage the establishment of accounts and regulatory treatment for the future availability of switching (similar to telephony-based Central Office and related items) that cable operators will probably be doing in the near-term.

I. Cost-of-Service Requirements

We support the proposed 11.25% rate of return, as we believe the convergence of cable and telephone pose similar financial risk to both parties; this return is the same as utilized for interstate telephone access services.

II. Cable Accounting System

We generally support the Commission's proposal to establish a uniform accounting system for cable operators electing cost-of-service regulation³, in that it is very similar to that currently in effect for telephone systems. (USOA for Class B telephone companies.)

III. Affiliate Transactions

We support the Commission's proposals and further applaud their efforts to refine these rules as applied to telephone companies.

IV. Productivity Offset

We support the use of an identical productivity offset as utilized for price cap telephone companies. Operations and procedures of cable companies are essentially identical to telephone companies and therefore the ongoing productivity offset should be identical in form and application to cable operators.⁴ We also support the proposal that programming costs should not be included within the productivity offset.⁵

V. Upgrade Incentive Plan

We believe this proposal⁶ should be allowed, at least on an experimental basis, to further assess the consumer effects and related concerns regarding viability of such plan(s). This

³Notice at pp. 306-308 & Attachment C

⁴Notice at pp. 318-321.

⁵Notice at p. 322.

⁶Notice at pp. 324-328.

proposal is both innovative and rationale in the converging telephone-cable world; and will provide consumers with additional choices of both providers and programming.

VI. Average Cost Schedules

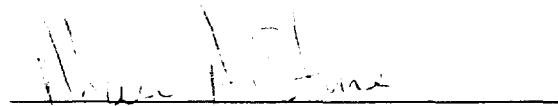
We support the Commission's proposal to establish average cost schedules, and suggest that the ranges be based upon system size, i.e. cost average per subscriber (similar to telephone average schedules), but only be applicable to single-owned systems having 1000 or fewer subscribers. Multiple system operators should not be eligible for such average schedule treatment.

VII. Initiation of Cost Studies

We support the Commission's initiative in this area, and suggest a possible Industry task force to assist the Cable Services Bureau in its task.

Finally we respectfully submit the Attachment A herein, as a listing of "technical points" relative to this Order that we believe require additional Comment.

FRED WILLIAMSON & ASSOCIATES, INC.

A handwritten signature in dark ink, appearing to read "Marc A. Stone", is written over a horizontal line.

Marc A. Stone
Manager - Regulatory/Legislative Affairs

Attachment A
Specific Technical Comments

I Ratebase

¶237-67

We agree that "Used and Useful, Prudent Investment" remains the best determiner of appropriate ratebase, and that original cost is the most fair and reliable method to value the ratebase. Further we agree that, where "original costs are not available", a logical method of approximating original cost could be utilized. However, this "approximation method" should be the exception rather than the rule and only permitted where the acquiring company can demonstrate that it has fully exhausted all possibilities of obtaining original cost data.

¶268-72

Due to the circumstances of cable reregulation, we perceive it reasonable to allow operators to recapture previously expensed start up losses. Likewise we agree that the original cost of obtaining the government franchise should be included in ratebase but amounts in excess of original cost allocated to "franchise costs" by an acquiring company should be excluded. We disagree though with the inclusion of customer lists in ratebase except for amounts paid to entities unaffiliated with the cable companies serving the area. Specifically, an acquiring company should not be permitted to allocate a part of the purchase price to "customer lists" of the acquired company and include that in ratebase. The selling company created that list through the normal course of operations, the cost of which was already borne by ratepayers.

¶89-97

We concur with the Commission's finding that "excess acquisition costs: such as goodwill and other creatively named intangibles should be excluded from ratebase. ¶98 We reject the notion that any provision for "increased efficiencies" of any acquiring company should be recognized in ratebase. The ratepayers have a right to expect the most efficient operation possible and such is assumed in the regulatory model.

¶101-107

With regard to plant under construction we agree that the commission's logic is sound but would request that small operators be granted an exemption. The administrative burden of calculating AFUDC and accounting for the resulting book/tax differences in basis outweigh the timing differences in cost recognition which should be minor in the case of small operators.

¶108-111

In light of the findings regarding cable industry billing and payment practices, we believe the presumption of no allowance for cash working capital to be reasonable.

Attachment A - Continued

¶112 Addressing the issue of excess capacity we are in agreement with comments made by NCTA. Operators should not be precluded a fair recovery of costs when the incremental cost of additional capacity is minor in comparison to potential future usage/cost savings. In fact we would argue that failure to incur the incremental cost, where there is expected future use, (regardless of the timeline), would be "imprudent".

II. Expenses

¶120-133 We are in general agreement with the Commission's proposals regarding operating expenses but we believe that a depreciation rate prescription is necessary to prevent abuses such as "spiking" depreciation for planned rate cases. A range of useful life periods such as proposed by Arthur Andersen should provide any flexibility needed to address specific circumstances of individual operators.

III. Taxes

¶138 We agree that cable companies regulated under cost of service should be reimbursed an allowance for income taxes regardless of form of ownership. ¶140 We do not believe that contributions or distributions of capital should be included in calculations determining the amount of the allowance since actual income tax is not impacted by such factors.

IV. Basis Period

¶146 The historic test year, adjusted for known and measurable changes is, in our opinion, the most appropriate period methodology.

V. Rate of Return

¶147 We agree with the creation of a unitary rate of return since it is our belief that the administrative and regulatory burden of establishing individual rates outweighs the benefits for those few cases where a higher rate might be warranted. ¶173 We believe that while CAPM and comparable earnings are valid methods for the determination of the cost of equity when suitable data are available; NPV is the most consistent and logically defensible method given data actually available.

¶184 We are in full concurrence with the Commission's findings and proposed methods on the cost of debt.

¶191-199 The unitary rate of return should be viewed as adaptable and non-static; able to respond to changes in cable industry finances. Therefore the Commission should base its decision regarding deemed capital structure on what is actually in place today rather than what is theorized for tomorrow. If the relative ratios of debt and equity do eventually change the prescribed rate can be adjusted. It is unfair for current ratepayers to

Attachment A - Continued

pay more than what today's optimum structure indicates. ¶199 The range of 40% to 70% debt is too low and too wide. Based upon the relatively low level of business risk involved in the cable television industry, we suggest that 60% - 80% debt is closer to the optimum capital structure.